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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/085,064	03/01/2002	Masanori Katayanagi	000449.00011	9142
22907	7590	07/28/2005		
BANNER & WITCOFF 1001 G STREET N W SUITE 1100 WASHINGTON, DC 20001			EXAMINER NGUYEN, THUAN T	
			ART UNIT	PAPER NUMBER
			2685	

DATE MAILED: 07/28/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

# Office Action Summary

Application No.

10/085,064

Applicant(s)

KATAYANAGI

Examiner

THUAN T. NGUYEN

Art Unit

2685

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

## Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

## Status

- 1) ☐ Responsive to communication(s) filed on \_\_\_\_.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

## Disposition of Claims

- 4) ☒ Claim(s) 1-36 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-36 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_ are subject to restriction and/or election requirement.

## Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

## Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
  - ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_.
  - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

## Attachment(s)

- |   |  |
|---|--|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892)   | 4) <input type="checkbox"/> Interview Summary (PTO-413)<br>Paper No(s)/Mail Date. ____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)  | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152)            |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)<br>Paper No(s)/Mail Date <u>03/02/05</u> . | 6) <input type="checkbox"/> Other: ____  |

## **DETAILED ACTION**

### ***Response to Arguments***

1. Applicant's arguments with respect to claims 1-36 have been considered but are moot in view of the new ground(s) of rejection.

### ***Claim Rejections - 35 USC 103***

2. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

3. Claims 1-4, 6-10, 12-16, 18-21, and 23-36 are rejected under 35 U.S.C. 103(a) as being unpatentable over Segal (U.S. Patent Pub 2001/0000505 A1) in view of Serrano et al (US Patent 5,638,421).

Regarding claim 1, Segal discloses "a communication apparatus having a first portion, a second portion and a vibrator, the communication apparatus comprising: a first detector configured to detect an operation to at least partially separate the first portion from the second portion; a second detector configured to detect a missed event in the apparatus; and a controller coupled to the first and second detectors and configured to activate the vibrator responsive to the first detector detecting the operation if the second detector has detected the missed event", i.e., a flip cell phone comprising a first portion and a second portion (Figs. 6-7) including a detecting means for operation as the user opens or separate the first portion and the second portion, and with an inside paging

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circuitry for detecting a missed event of the apparatus, i.e., a missed call or unanswered call, an alert or notification is provided to the user either in audible or vibrating according to the setting up from the user for the controller of the apparatus (page 9, sections 0116 to 0118 and page 15, sections 0182 to 0184).

Applicant argues that Segal does not provide a second detector for detecting a missed event and activating a vibrator; however, Serrano teaches this same technique as Serrano provides a second detector for detecting a missed event, i.e., a missed call, and the device activates the vibrator due to this missed event (col. 1/lines 24-60 as missed calls are notified to the user in audible, which can be easily annoying, and Fig. 3, with a vibrator timer is triggered to activate a vibrator 290 based on either AC detector, DC detector, or RF detector, see col. 6/lines 18-64). Therefore, it would have been obvious to one of ordinary skill in the art to modify Segal's system with Serrano's teaching technique in detecting or monitoring the receiving circuitry for an incoming call, the vibrator is activated based on a preset condition of the power level in receiving calls.

As for claims 2-4, Segal suggests "wherein the detected missed event is a missed call"; "the detected missed event is an unread message"; and "the detected missed event is a missed alarm time", i.e., a missed call occurs as the caller is busy or an unread message occurs as the caller does not expect the call and does not activate the flip phone, or the caller does not activate an alert message or voice messages to him (page 15/sections 0179 to 0187).

As for claim 5, in further view of claim 1, Segal further discloses "wherein the first and second portions are foldably coupled with each other, the operation including at

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least partially unfolding the first portion from the second portion” (Figs. 6-7, and page 7/section 0118).

Regarding claims 7-10 and 12, these claims for “a communication apparatus having a first portion, a second portion and a sound-emitting unit, the communication apparatus comprising: a first detector configured to detect an operation to at least partially separate the first portion from the second portion; a second detector configured to detect an missed event in the apparatus; and a controller coupled to the first and second detectors and configured to activate the vibrator responsive to the first detector detecting the operation if the second detector has detected the missed event” with same limitations as addressed above are rejected for the reasons given in the scope of claims 1-4 and 6 as already discussed above. Applicant argues that Segal does not provide a second detector for detecting a missed event and activating a vibrator; however, Serrano teaches this same technique as Serano provides a second detector for detecting a missed event, i.e., a missed call, and the device activates the vibrator due to this missed event (col. 1/lines 24-60 as missed calls are notified to the user in audible, which can be easily annoying, and Fig. 3, with a vibrator timer is triggered to activate a vibrator 290 based on either AC detector, DC detector, or RF detector, see col. 6/lines 18-64). Therefore, it would have been obvious to one of ordinary skill in the art to modify Segal’s system with Serrano’s teaching technique in detecting or monitoring the receiving circuitry for an incoming call, the vibrator is activated based on a preset condition of the power level in receiving calls.

Regarding claims 13-16 and 18-21, these claims for “a method in a communication apparatus having a first portion, a second portion, and a vibrator, the

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method comprising the steps of: detecting a missed event in the apparatus; detecting an operation to at least partially separate the first portion from the second portion; and controlling the vibrator responsive to the operation if the missed event has been detected” with same limitations as addressed above are rejected for the reasons given in the scope of claims 1-4 and 6 as already discussed above. Applicant argues that Segal does not provide a second detector for detecting a missed event and activating a vibrator; however, Serrano teaches this same technique as Serano provides a second detector for detecting a missed event, i.e., a missed call, and the device activates the vibrator due to this missed event (col. 1/lines 24-60 as missed calls are notified to the user in audible, which can be easily annoying, and Fig. 3, with a vibrator timer is triggered to activate a vibrator 290 based on either AC detector, DC detector, or RF detector, see col. 6/lines 18-64). Therefore, it would have been obvious to one of ordinary skill in the art to modify Segal’s system with Serrano’s teaching technique in detecting or monitoring the receiving circuitry for an incoming call, the vibrator is activated based on a preset condition of the power level in receiving calls.

Regarding claims 23-36, these claims for “a controller for use in a communication apparatus, the communication apparatus having a first portion, a second portion and a vibrator, the controller comprising: a first detector configured to detect an operation to at least partially separate the first portion from the second portion; a second detector configured to detect a missed event in the apparatus; and wherein the controller coupled to the first detector and second detector and configured to activate the vibrator responsive to the first detector detecting the operation if the second detector has detected the missed

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event” and a corresponding communication apparatus with same limitations as addressed above are rejected for the reasons given in the scope of claims 1-4 and 6 as already discussed above.

4. Claims 5, 11, 17, and 22 are rejected under 35 U.S.C. 103(a) as being unpatentable over Segal (U.S. Patent Pub 2001/0000505 A1) in view of Serrano as in claims 1, 7, 13, and 18 above and in further view of Perry et al. (US Patent 6,160,489).

Regarding claims 5, 11, 17 and 22, Segal further mention “comprising a memory controller” (Fig. 5) but not “configured to store a vibrating pattern, the controller further coupled to the configured to control the vibrator in accordance with the vibrating pattern” and “sound patterns”; however, Perry teaches a wireless communication device having distinctive tactile alert patterns including vibrating patterns and sound patterns to alert the user in different situations (Perry, Figs. 2-3, and col. 2/lines 12-47 and col. 4/line 16 to col. 5/line 60). Therefore, it would have been obvious to one of ordinary skill in the art at the time the invention was made to modify Segal and Serrano’s apparatus with Perry’s teaching technique of providing distinctive tactile alert patterns including vibrating patterns and sound patterns in order to alert the user in different situations in environments as the ambient noise level either very low or very high as suggested by Perry.

***Conclusion***

**5. Any response to this action should be mailed to:**

Commissioner of Patents and Trademarks  
Washington, D.C. 20231

**or faxed to:**

(703) 872-9306, (for Technology Center 2600 only)

**6.** Any inquiry concerning this communication or earlier communications from the examiner should be directed to Tony Thuan Nguyen whose telephone number is (571) 272-7895. The examiner can normally be reached on Monday-Friday from 9:30 AM to 7:00 PM, with alternate Fridays off.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).



**TONY T. NGUYEN  
PATENT EXAMINER**

Tony T. Nguyen  
Art Unit 2685  
July 20, 2005